

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.189 OF 2006
IN
NOTICE OF MOTION NO.2259 OF 2005
IN
B.C.C.C. SUIT NO.6044 OF 1999
WITH
CIVIL APPLICATION NO.259 OF 2006

Ratnakar Vasantryao Chogle & Ors. ...Appellants

Versus

The State of Maharashtra & Ors. ...Respondents

.....

Mr.S.R.Mishra for Appellants.

Ms.Geeta Joglekar for Respondent No.1.

.....

CORAM: A.M.KHANWILKAR, J.

APRIL 17, 2006.

P.C.

1. Heard Counsel for the parties.

2. There is substance in the grievance made by the Counsel for the Appellants that during the

pendency of the Suit, the Respondents, in particular, Corporation cannot be permitted to alter the status of the suit property. However, from the record produced before me, it appears that the Corporation have given the suit plot to M/s.Poisar Gymkhana Trust for development (beautification). The Corporation shall make it clear to M/s.Poisar Gymkhana Trust that any beautification programme undertaken on the suit plot will be entirely at the risk, cost and consequences of M/s.Poisar Gymkhana Trust. Neither the said M/s.Poisar Gymkhana Trust or any beneficiary thereof will be entitled to claim any equity at a later point of time. In other words, the suit plot can be utilised as recreation ground only and no structure should be erected on the said plot till the disposal of the Suit or further order to be passed by the Trial Court at appropriate stage of the proceedings.

3. In view of this observation, Counsel for the Appellants submits that Notice of Motion No.2259 of 2005 may also be disposed of so that, this arrangement be continued by the parties and

also persons claiming through the Corporation till the pendency of the Suit.

4. The order sheet placed on record, it is obvious that the Suit is already part-heard and is in progress. The Suit pertains to year 1999. The Trial Court may be well advised to proceed with the said Suit expeditiously as High Court Expedited matter.

5. Appeal and the companion Civil Application disposed of on the above terms.

A.M.KHANWILKAR, J.